

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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on
MULTIDISTRICT LITIGATION

Feb 12, 2010
FILED
CLERK'S OFFICE

IN RE: AIR CRASH AT MADRID, SPAIN, ON
AUGUST 20, 2008

MDL No. 2135

2:10-ML-2135 GAF (RZx)

TRANSFER ORDER

Before the entire Panel*: Defendants in this litigation – The Boeing Co., McDonnell Douglas Corp. (McDonnell Douglas), Esterline Technologies Corp., Leach International, Inc., Honeywell International Inc., Eaton Corp., and Ametek Inc. – move, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of the 44 actions listed on Schedule A in the Central District of California. The defendants' motion encompasses 41 actions in the Middle District of Florida, which are consolidated into one action, two actions in the Northern District of Illinois and one action in the Central District of California.

Plaintiffs in the two Northern District of Illinois actions, the Central District of California action, and one of the consolidated Middle District of Florida actions support the motion. Plaintiffs in the remaining Middle District of Florida actions did not respond to the motion.

After considering the argument of counsel, we find that these 44 actions involve common questions of fact, and that centralization under Section 1407 in the Central District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions concern the cause or causes of the crash of a McDonnell Douglas model MD-82 aircraft operated by Spanair as Flight JK 5022 on August 20, 2008; the flight crashed after takeoff from Madrid Barajas International Airport in Madrid, Spain. Centralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

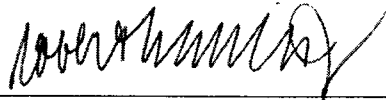
The Central District of California stands out as an appropriate transferee district. Moving defendants and all responding plaintiffs support centralization in this district, and the presence of some defendants in the Central District of California provides a connection to the actions. Centralization in this district also permits the Panel to effect the Section 1407 assignment to an experienced transferee judge who has not recently received such an assignment and who can steer this litigation on an expeditious course.

* Judges Heyburn and Hansen took no part in the decision of this matter.

- 2 -

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Central District of California are transferred to the Central District of California and, with the consent of that court, assigned to the Honorable Gary Feess for coordinated or consolidated pretrial proceedings with the action listed on Schedule A and pending in that district.

PANEL ON MULTIDISTRICT LITIGATION



Robert L. Miller, Jr.
Acting Chairman

John G. Heyburn II, Chairman*
David R. Hansen*
Frank C. Damrell, Jr.

Kathryn H. Vratil
W. Royal Furgeson, Jr.
David G. Trager

**IN RE: AIR CRASH AT MADRID, SPAIN, ON
AUGUST 20, 2008**

MDL No. 2135

SCHEDULE A

Central District of California

Kim Ivonne Tate Perez, et al. v. The Boeing Co., et al., C.A. No. 2:09-7285

Middle District of Florida

Maria Del Carmen Hernandez, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1553
Leandro Ortega Pena v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1641
Angeles Carpintero Ruiz, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1642
Gloria Ester Diepa Martin, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1643
Gloria Ester Diepa Martin, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1644
Higinio Ibanez Fraca, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1645
Eugenio Nunez Pavillard, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1646
Shirley Mani, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1647
Vicenta Guerreio, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1648
Josefa Ortiz Perea, etc v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1649
Carmelo Alvarado Castro, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1650
Juan Diepa Hernanda, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1651
Maria Dolores Florez Rodriguez, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1655
Sonia MARIa C  stillo Martinez, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1656
Daniel Estevez Ruiz, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1657
Maria Loreto Gonzalez Cabanas, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1658
Zaida Rodriguez Ramirez, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1659
Juan de Dios Font Marin, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1661
Jose Jesus Placeres Perez, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1662
Maximo Diaz Delgado, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1663
Maria Candelaria Perez Mateo, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1664
Tereza Suarez Quebedo, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1665
Rafael Moreno Perez, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1666
Maria Estrella Cigala Marrero, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1667
Maria De La Paz Soto Lloves Concepcion, etc. v. McDonnell Douglas Corp., et al.,
C.A. No. 8:09-1668
Maria Estrella Cigala Marrero, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1669
Maria Estrella Cigala Marrero, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1670
Yolanda Villanueva Martin, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1671
Manfred Mrotzek, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1673
Manfred Mrotzek, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1680
Manfred Mrotzek, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1683

- A2 -

Middle District of Florida (Continued)

Eugenio Nunez Pavillard, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1684
Angel Francisco Santa Castillo, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1685
Yolanda Villanueva Martin, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1687
Yolanda Villanueva Martin, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1689
Maria Jesus Melian Perez, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1690
Yolanda Villanueva Martin, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1691
Maria Jesus Melian Perez, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1692
Irina Hult, etc. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1693
Johan L. Rondonuwu, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1694
Anna Maria Sanchez Diez, et al. v. McDonnell Douglas Corp., et al., C.A. No. 8:09-1707

Northern District of Illinois

Elena Celia Fortaner, et al. v. The Boeing Co., et al., C.A. No. 1:09-5808
Antonio Garcia Martin, etc. v. The Boeing Co., et al., C.A. No. 1:09-5810

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

CHAIRMAN:
John G. Heyburn II
United States District Court
Western District of Kentucky

MEMBERS:
Robert L. Miller, Jr.
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Northern District of Indiana

Kathryn H. Vratil
United States District Court
District of Kansas

David R. Hansen
United States Court of Appeals
Eighth Circuit

W. Royal Furgeson, Jr.
United States District Court
Northern District of Texas

Frank C. Damrell, Jr.
United States District Court
Eastern District of California

David G. Trager
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Eastern District of New York

DIRECT REPLY TO:

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February 12, 2010

Honorable Gary Feess
U.S. District Judge
Edward R. Roybal Federal Building
& U.S. Courthouse, Suite 730
255 East Temple Street
Los Angeles, CA 90012-3332

Re: MDL No. 2135 -- IN RE: Air Crash at Madrid, Spain, on August 20, 2008

Dear Judge Feess:

Attached are: (i) a letter directed to the Clerk of your district advising that the above-referenced litigation has been transferred to you under 28 U.S.C. § 1407 and (ii) a copy of the related transfer order.

As you may know, this office maintains all multidistrict litigation statistics and submits them to the Administrative Office for inclusion in the Annual Report of the Director. Consequently, once yearly we will verify the actual number and status of the actions assigned to you, including actions added to the docket either by transfer of tag-along actions or additional related actions originally filed in your district. You will receive a copy of our annual inquiry to your Clerk.

You may use our Citrix remote access server to access our database for information regarding assigned multidistrict litigation. Our database contains transferor and transferee information for your multidistrict litigation. It identifies counsel who made appearances in the transferor districts, counsel who filed appearances before the Panel and counsel assigned by you as liaison counsel. It tracks each individual action from the date of transfer to termination either by dismissal, remand to transferor district, remand to state court, etc. You may access the server on a Windows based personal computer with DCN access. To use the server, please feel free to contact our Systems Administrator, Al Ghiorzi, to establish a password and receive instructional information.

Your attention is directed to Rule 7.6 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 436-38 (2001), dealing with termination and remand of actions transferred by the Panel. Specifically, the rule states, in part, the following:

- 2 -

(a) Actions terminated in the transferee district court by valid judgment, including but not limited to summary judgment, judgment of dismissal and judgment upon stipulation, shall not be remanded by the Panel and shall be dismissed by the transferee district court....

(b) Each action transferred only for coordinated or consolidated pretrial proceedings that has not been terminated in the transferee district court shall be remanded by the Panel to the transferor district for trial....

(c) The Panel shall consider remand of each transferred action or any separable claim, cross-claim, counterclaim or third-party claim at or before the conclusion of coordinated or consolidated pretrial proceedings on...suggestion of the transferee district court....

We will promptly act upon any written notices from you that remand of actions or separable claims transferred under Section 1407 is appropriate.

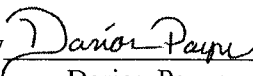
If you appoint liaison counsel, in your pretrial order outlining liaison counsel's responsibilities, please consider reinforcing Panel Rule 5.2(e), which provides:

If following transfer of any group of multidistrict litigation, the transferee district court appoints liaison counsel, this Rule [Panel Rule 5.2, Service of Papers Filed Before the Panel] shall be satisfied by serving each party in each affected action and all liaison counsel. Liaison counsel designated by the transferee district court shall receive copies of all Panel orders concerning their particular litigation and shall be responsible for distribution to the parties for whom he or she serves as liaison counsel.

Thanks for your help. Feel free to contact this office if we may be of assistance to you.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By 
Darion Payne
Deputy Clerk

Attachments (Separate Documents)

cc: Clerk, United States District Court
for the Central District of California

UNITED STATES JUDICIAL PANEL
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United States District Court
Eastern District of California

David G. Trager
United States District Court
Eastern District of New York

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February 12, 2010

Terry Nafisi, Clerk
G-8 U.S. Courthouse
312 North Spring Street
Los Angeles, CA 90012

Re: MDL No. 2135 -- IN RE: Air Crash at Madrid, Spain, on August 20, 2008

Dear Ms. Nafisi:

Attached as a separate document is a certified copy of a transfer order that the Judicial Panel on Multidistrict Litigation issued today in the above-captioned matter. The order is directed to you for filing. Rule 1.5 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 428 (2001), states "A transfer or remand pursuant to 28 U.S.C. § 1407 shall be effective when the transfer or remand order is filed in the office of the clerk of the district court of the transferee district."

Today we are also serving an information copy of the order on the transferor court(s). The Panel's governing statute, 28 U.S.C. § 1407, requires that the transferee clerk "transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred [transferor court]."

Rule 1.6(a), pertaining to transfer of files, states "the clerk of the transferor district court shall forward to the clerk of the transferee district court the complete original file and a certified copy of the docket sheet for each transferred action." **With the advent of electronic filing, many transferee courts have found that it is not necessary to request the original file. Some transferee courts will send their certified copy of the Panel order with notification of the newly assigned transferee court case number and inform the transferor courts that they will copy the docket sheet via PACER. Others may request a certified copy of the docket sheet and a copy of the complaint (especially if it was removed from state court). You should be specific as to the files you would like to receive from the transferor courts and if no files will be necessary, you should make that clear. Therefore, Rule 1.6(a) will be satisfied once a transferor court has complied with your request.**

You may find Chapter 7 of Volume 4 of the Clerks Manual, United States District Courts helpful in managing the MDL docket.

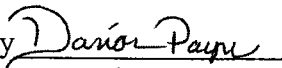
The Panel Clerk's Office maintains the only statistical accounting of multidistrict litigation traffic in the federal courts. Therefore, we would appreciate your cooperation in keeping the Panel advised of the progress of this litigation. We are particularly interested in receiving the docket numbers assigned to each transferred action by your court; the caption and docket numbers of all actions originally filed in your district; and copies of orders regarding appointment of liaison counsel, settlements, dismissals, state court remands, and reassignments to other judges in your district.

Your attention is also directed to Panel Rule 7.6, regarding termination and remand of transferred actions. Upon notification from your court of a finding by the transferee judge suggesting to the Panel that Section 1407 remand of a transferred action is appropriate, this office will promptly file a conditional remand order.

Attached to this letter, for your information, is a copy of the Panel Service List. Listed below is the transferor clerk information:

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By 
Darion Payne
Deputy Clerk

Attachments (Transfer Order is a Separate Document)

cc: Transferee Judge: Judge Gary Feess
Chief Judge Transferee District: Judge Audrey B. Collins

JPML Form 33

**Judicial Panel on Multidistrict Litigation - Panel Service List
for
MDL 2135 - IN RE: Air Crash at Madrid, Spain, on August 20, 2008**

***** Report Key and Title Page *****

Please Note: This report is in alphabetical order by the last name of the attorney. A party may not be represented by more than one attorney. See Panel rule 5.2(c).

Party Representation Key

- * Signifies that an appearance was made on behalf of the party by the representing attorney.
 - # Specified party was dismissed in some, but not all, of the actions in which it was named as a party.
- All counsel and parties no longer active in this litigation have been suppressed.

This Report is Based on the Following Data Filters

Docket: 2135 - Air Crash at Madrid, Spain - 8/20/08
For Open Cases

Docket: 2135 - IN RE: Air Crash at Madrid, Spain, on August 20, 2008

Status: Transferred on 02/12/2010

Transferee District: CAC Judge: Feess, Gary

Printed on 02/12/2010

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ATTORNEY - FIRM

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**IN RE: AIR CRASH AT MADRID, SPAIN, ON
AUGUST 20, 2008**

MDL No. 2135

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